

**REMARKS/ARGUMENTS**

As a result of this Supplemental Response, claims 12-29 continue to be under active consideration in the subject patent application. Entry into the above-identified Application is respectfully requested.

In the Official Action mailed December 1, 2005, the Examiner has alleged that the response filed September 13, 2005, is not fully responsive to the prior Office Action under 37 CFR 1.111. In particular, the Examiner has taken the position that the additional patentable aspects of new claims 21-29 have not been specifically addressed in conformance with 37C.F.R. 1.111 (b) and (c). Entry into the above-identified Application of the Amendment filed September 13, 2005, and this Response supplementing that Amendment, are respectfully requested for the following reasons.

New claims 21-29 have been added to set forth additional patentable aspects of Applicant's invention. Support for these new claims may be found throughout the specification, drawings, and claims as originally filed. No new matter has been introduced into the application as a result of the introduction of new claims 21-29. Applicant points out that claim 21 is presented in independent form, with trailing claims 22-29 being dependent, directly or indirectly, from it and presenting further limitations to the structure of the all-terrain board and its braking system. The structures defined by new claims 21-29, taken as a whole, are absent from the Andorsen reference alone or in any valid combination with the Krasnoff, Rosso or Gates references. In particular, claims 21-29 provide an all terrain board apparatus having a frame and wheel means comprising leading and rear wheels, with a frame interconnecting the wheels. A board

member is mounted on the frame and disposed between the leading and rear wheels, with the board member being arranged to be ridden by a rider standing with both feet on the board member. The foregoing structure is wholly absent from the Andorsen reference alone or in any valid combination with the Krasnoff, Rosso or Gates references.

More particularly, Andorsen et al., discloses roller skates where one foot only is attached to each skate, and each skate incorporates two rear wheels to provide stability. Thus, contrary to the Examiner's stated position that ". . . Andorsen et al. teaches a *riding board*. . ." Andorsen's invention relates to a pair of roller skates not an individual board. In addition, Andorsen simply does not disclose a riding board at all. In fact, Andorsen only discloses a single foot device. Each and everyone of new claims 21-29 defines an all terrain board apparatus arranged to be ridden by a rider standing with both feet on the board member. Whether the reference does not explicitly rule out the possibility of accommodating both feet of a user is not relevant to the establishment of a *prima facia* case of obviousness under 35 U.S.C. § 103(a), since a prior art reference relied upon as the basis of an obviousness rejection must teach or suggest all of the claim limitations presented in new claims 21-29. It is clear from the drawings of Andorsen that he never contemplates the use of both feet on a single skate, surely because his device is simply not large enough to accommodate both feet of a rider on one skate, and was never intended for that purpose. In fact, as pointed out by the Examiner relative to Andorsen's device, there is shown only a single foot binding which is described to be for the runner's shoes 17. The binding shown in Andorsen's drawing is a right foot binding. Therefore, it can be assumed that there will be another roller

skate with a binding suitable for the left foot of the operator, unlike the invention defined by new claims 21-29. There is no teaching at all in Andorsen of the adaptation of his device to accommodate both of the user's feet as to an even more compact mono-steel snowboard type configuration as defined by new claims 21-29.

In addition, Applicant's board apparatus, as defined by new claims 21-29, further comprises a brake means having a braking member arranged to be moved so as to apply a braking force to at least one rear wheel of the board apparatus. The braking member is an upright member having a lower end and an upper end where the braking member extends upwardly from the frame and the lower end of the braking member is connected to the frame about a transverse pivotal mounting. The braking member extends upwardly in a free standing manner and the upper end thereof is arranged, in use, to be only disengagably contacted on one side by a calf of a rearwardly disposed leg of a rider. The upright member is normally biased into a non-braking position but is arranged so as to be moved to a braking position by pressure applied by contact by the calf of the rearwardly disposed leg of a rider so as to apply braking force to the rear wheel. The foregoing braking structure is wholly absent from the Andorsen reference alone or in any valid combination with the Krasnoff, Rosso or Gates references.

In stark contrast to Applicant's invention as defined by new claims 21-29, Andorsen utilizes a "lean back" approach to activate a brake, where each of the users legs leans back to brake. This is completely different from Applicant's invention, where just one of the users rear calves is required, i.e., in the present invention the rider uses one leg to operate one lever to bring the board to a stop. Andorsen requires leaning back on both legs to operate two levers and two braking means. The brake of

Andorsen is friction based, operating directly onto the wheels without cables or more sophisticated braking equipment. New claims 21, and 23-29 define braking structures that are wholly distinct from Andorsen.

Krasnoff is more in the nature of a scooter where one foot is intended to engage with the ground while the other foot is on the board and presumably working the treadle arrangement. Krasnoff shows a very small foot operated mudguard style brake on a treadle scooter. Krasnoff does not disclose ". . . a *braking member adapted for engagement with a lower leg . . .*" because Krasnoff himself states ". . . *the braking mechanism is actuated by merely pressing the outer curved plate with the foot to force the braking shoe against the periphery of the rear wheel . . .*" Thus, the brake described in Krasnoff is a friction brake operated by using a foot such that it would be impossible to operate it with a calf or lower leg. On a skateboard, as defined by new claims 21-29 of the present invention, using the foot is impossible because the rider cannot lift a foot from the deck without losing balance. Thus the Krasnoff device does not appear to be intended for use with both feet of the user on the board member. In fact, because Krasnoff has a treadle arrangement this seems to be a most unlikely possibility. In any event this option does not appear to be disclosed. Furthermore, Krasnoff's brake is structurally distinct from the brake of the present invention as defined by new claims 21-29. It simply comprises a pivotally mounted upright member 122 which is connected to a bolt and nut assembly 124. A curved brake shoe is attached to the bolt and nut assembly 124 and is arranged to engage directly with a tire of a wheel when the curved plate 122 is activated. A spring 132 is arranged to return the curved plate 122 to its original position. None of the foregoing structure even

vaguely suggests Applicant's braking member (defined by new claims 21 and 23-29) nor its relationship to either the rider's foot/leg or the rear wheels as defined by new independent claim 21.

Unlike the invention defined by new claims 21-29, the Rosso reference (like Andorsen) relates to roller skates of the type where one foot is placed in each of two skates (see, Fig. 7 of Rosso). Here again, the Examiner is incorrect when proposing that "*Rosso et al. teach a riding board*" since Rosso relates to a pair of skates and not an individual board. New claims 21-29 define an all terrain board apparatus having a frame and wheels comprising leading and rear wheels, with the frame interconnecting the wheels and a board member mounted on the frame disposed between the leading and rear wheels so that the board member is arranged to be ridden by a rider standing with both feet on the board member.

In stark contrast to the device defined by new claims 21-29, Rosso's device is arranged to have a foot with a knee lever, where the foot of Rosso's skater is not firmly placed on a rigid deck. Rosso utilizes this known effect exactly since, in his device, it is necessary "...that a pivotal movement of the shoe-plate causes a pivotal movement of the fork...." Rosso's disclosure depends upon the skater's foot and the fork/lever both tilting for the brake to operate, with the brake lever means being tied to the user's knee. This structure is completely different from Applicant's invention, as defined by new claims 21-29, wherein pressure is applied by a calf of a rearwardly disposed leg of the rider. Furthermore, Rosso uses the "lean back" approach to activate a brake, each leg being leaned back, not just one rear calf as in the case of the present invention. Rosso requires both legs to operate two levers and two braking means. These differences in

braking structures are further defined by new claims 23-29, and are wholly distinct from Andorsen.

The Examiner appears to be mistaken regarding the standard for obviousness when stating that the Rosso ". . . *reference is not explicitly limited from accommodating both feet of a user . . .*" since a *prima facie* case of obviousness requires some suggestion or motivation, either in the reference itself, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. The fact that Rosso does not explicitly limit his disclosure has no bearing on this standard at all. There must be a suggestion or motivating disclosure to bring a person of ordinary skill to the structure advanced by the Examiner when relying upon this reference. Additionally, the prior art reference must teach or suggest all of the claim limitations presented in new claims 21-29. It does not do so. There is no teaching, suggestion, or motivating disclosure within the four corners of Rosso of the adaptation of his device to accommodate both of the user's feet on a single board or the use of pressure applied by a calf of a rearwardly disposed leg of the rider, absent impermissible hindsight on the part of the Examiner.

The addition of the teachings of Gates to those of Rosso also fails to render obvious the present invention, as defined by new claims 21-29. The disclosures of Rosso and Gates (and for that matter Andorsen) all show braking systems for roller skates, i.e., a pair of devices that are fitted to each foot of the user. Rosso and Andorsen show "lean back" braking methods, a principle that has long been used and accepted as a braking technique on roller skates and roller blades as they are typically fitted with brake pads on the heel which make contact with the ground when a rider

leans or tilts back. To brake a roller skate, the rider moves one foot/skate forward and another rearward (to provide stability) and then tilts back with one or both feet to apply the braking pad to the ground. Most importantly, there are two skates which can be orientated laterally and independently to provide stability when braking. Rosso and Andorsen have simply utilized more complex variations of this known lean-back braking action for roller skates. Neither reference even vaguely contemplates Applicant's structure of a braking member arranged to be engaged and moved by pressure applied by a calf of a rearwardly disposed leg, as defined by new independent claim 21 or new dependent claims 23-29.

Gates discloses a pair of roller skates as well, with rim brakes operated by hand levers on the ends of flexible cables (see Fig. 1 of Gates). Gates simply has no relevance whatever to the present invention as defined to new claims 21-29, which provides an all-terrain board that is constructed to be ridden by a rider standing with both feet on the board. Moreover, and in stark contrast to the device taught by Gates, Applicant's braking member, as defined by new independent claim 21 and new dependent claims 23-29, is upright having a lower end and an upper end, with the braking member extending upwardly from the frame and the lower end of the braking member being connected to the frame about a transverse pivotal mounting so that the braking member extends upwardly in a free standing manner and the upper end is arranged, in use, to be only disengagably contacted on one side by a calf of a rearwardly disposed leg of a rider. None of the foregoing structure is even vaguely suggested by Gates alone or in combination with the disclosure of Rosso.

Applicant submits that the foregoing discussion of the structure of new claims 21-29 in connection with each of the references relied upon by the Examiner meets the requirements set forth in 37 C.F.R. §1.111, and is thus fully responsive. Reconsideration and entry of this Supplemental Response along with the Amendment filed September 13, 2005, are respectfully requested.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If a telephone conference would be of assistance in advancing prosecution of the above-identified application, Applicant's undersigned Attorney invites the Examiner to telephone him at 215-979-1255.

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Respectfully submitted,

  
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Samuel W. Apicelli  
Registration No. 36,427  
Customer No. 0041396  
DUANE MORRIS LLP  
30 S. 17<sup>th</sup> Street  
Philadelphia, PA 19103-4196  
Tel.: (215)979-1255  
Fax: (215) 979-1020  
swapicelli@duanemorris.com